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SENATE BILL 750

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO THE INVESTMENT OF PUBLIC MONEY; PROVIDING THAT LOCAL GOVERNMENTS MAY INVEST IN CERTAIN OBLIGATIONS OF THE UNITED STATES GOVERNMENT, ITS AGENCIES, GOVERNMENT-SPONSORED ENTERPRISES, CORPORATIONS OR INSTRUMENTALITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS. --

A. Upon the certification or designation of ~~any~~ a bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and county or municipal treasurers who have on hand any public money by virtue of their offices shall make deposit of that money in

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1 banks and savings and loan associations, and may make deposit
2 of that money in credit unions whose deposits are insured by an
3 agency of the United States, designated by the authority
4 authorized by law to so designate to receive the deposits of
5 all money thereafter received or collected by the treasurers.

6 B. County or municipal treasurers may deposit money
7 in one or more accounts with any such bank, savings and loan
8 association or credit union located in their respective
9 counties, subject to limitation on credit union accounts.

10 C. The state treasurer may deposit money in one or
11 more accounts with any such bank, savings and loan association
12 or credit union, subject to the limitation on credit union
13 accounts.

14 D. Duplicate receipts or deposit slips shall be
15 taken for each deposit made pursuant to Subsection A, B or C of
16 this section. When deposits are made by the state treasurer,
17 one copy of the receipt or deposit slip shall be retained by
18 the state treasurer and the other copy shall be filed monthly
19 on the first day of each month with the financial control
20 division of the department of finance and administration. When
21 deposits are made by the treasurer or any other authorized
22 person making the deposits for a board of finance of a public
23 or educational institution, one copy of the receipt or deposit
24 slip shall be retained by the treasurer or authorized person so
25 making the deposit and the other copy shall be filed monthly on

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1 the first day of each month with that board of finance. When
2 deposits are made by a county or municipal treasurer, one of
3 the duplicate receipts or deposit slips shall be retained by
4 the treasurer so making the deposit and the other copy shall be
5 filed monthly on the first day of each month with the secretary
6 of the board of finance of the county or municipality for which
7 that treasurer is acting.

8 E. "Deposit", as used in this section, means either
9 investment or deposit and includes share, share certificate and
10 share draft.

11 F. County or municipal treasurers, by and with the
12 advice and consent of their respective boards of finance
13 charged with the supervision and control of the respective
14 funds, have the power to invest all sinking funds or money
15 remaining unexpended from the proceeds of any issue of bonds or
16 other negotiable securities of any county, municipality or
17 school district that is entrusted to their care and custody and
18 all money not immediately necessary for the public uses of the
19 counties, municipalities or school districts not invested or
20 deposited in banks, savings and loan associations or credit
21 unions in:

22 (1) bonds or negotiable securities of the
23 United States, the state or any county, municipality or school
24 district that has a taxable valuation of real property for the
25 last preceding year of at least one million dollars

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1 (\$1,000,000) and has not defaulted in the payment of any
2 interest or sinking fund obligation or failed to meet any bonds
3 at maturity at any time within five years last preceding; or

4 (2) ~~[securities that are issued by the United~~
5 ~~States government or by its agencies or instrumentalities and~~
6 ~~that are either direct obligations of the United States or are~~
7 ~~backed by the full faith and credit of the United States~~
8 ~~government or agencies guaranteed by the United States~~
9 ~~government]~~ bonds, notes or other obligations of the United
10 States government, its agencies, government-sponsored
11 enterprises, corporations or instrumentalities and that portion
12 of bonds, notes or other obligations guaranteed as to principal
13 and interest and issued by the United States government, its
14 agencies, government-sponsored enterprises, corporations or
15 instrumentalities or issued pursuant to acts or programs
16 authorized by the United States government.

16 G. The treasurer of a class A county or the
17 treasurer of a municipality having a population of more than
18 sixty-five thousand according to the most recent federal
19 decennial census and located within a class A county, by and
20 with the advice and consent of the boards of finance charged
21 with the supervision and control of the funds, has the power to
22 invest all sinking funds or money remaining unexpended from the
23 proceeds of any issue of bonds or other negotiable securities
24 of the county or municipality that is entrusted to his care and
25 custody and all money not immediately necessary for the public

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1 uses of the county or municipality not invested or deposited in
2 banks, savings and loan associations or credit unions in:

3 (1) shares of a diversified investment company
4 registered pursuant to the federal Investment Company Act of
5 1940 that invests in fixed-income securities or debt
6 instruments that are listed in a nationally recognized, broad-
7 market, fixed-income-securities market index; provided that the
8 investment company or manager has total assets under management
9 of at least one hundred million dollars (\$100,000,000) and
10 provided that the board of finance of the county or
11 municipality may allow reasonable administrative and investment
12 expenses to be paid directly from the income or assets of these
13 investments;

14 (2) individual, common or collective trust
15 funds of banks or trust companies that invest in fixed-income
16 securities or debt instruments that are listed in a nationally
17 recognized, broad-market, fixed-income-securities market index;
18 provided that the investment company or manager has total
19 assets under management of at least one hundred million dollars
20 (\$100,000,000) and provided that the board of finance of the
21 county or municipality may allow reasonable administrative and
22 investment expenses to be paid directly from the income or
23 assets of these investments; or

24 (3) shares of pooled investment funds managed
25 by the state investment officer, as provided in Subsection G of
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1 Section 6-8-7 NMSA 1978; provided that the board of finance of
2 the county or municipality may allow reasonable administrative
3 and investment expenses to be paid directly from the income or
4 assets of these investments.

5 H. A local public body, with the advice and consent
6 of the body charged with the supervision and control of the
7 local public body's respective funds, has the power to invest
8 all sinking funds or money remaining unexpended from the
9 proceeds of any issue of bonds or other negotiable securities
10 of the investor that is entrusted to the local public body's
11 care and custody and all money not immediately necessary for
12 the public uses of the investor and not otherwise invested or
13 deposited in banks, savings and loan associations or credit
14 unions in contracts with banks, savings and loan associations
15 or credit unions for the present purchase and resale at a
16 specified time in the future of specific securities at
17 specified prices at a price differential representing the
18 interest income to be earned by the investor. The contract
19 shall be fully secured by obligations of the United States or
20 other securities backed by the United States having a market
21 value of at least one hundred two percent of the contract. The
22 collateral required for investment in the contracts provided
23 for in this subsection shall be shown on the books of the
24 financial institution as being the property of the investor and
25 the designation shall be contemporaneous with the investment.

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1 As used in this subsection, "local public body" includes all
2 political subdivisions of the state and agencies,
3 instrumentalities and institutions thereof; provided that home
4 rule municipalities that prior to July 1, 1994 had enacted
5 ordinances authorizing the investment of repurchase agreements
6 may continue investment in repurchase agreements pursuant to
7 those ordinances.

8 I. The state treasurer, with the advice and consent
9 of the state board of finance, has the power to invest money
10 held in demand deposits and not immediately needed for the
11 operation of state government and money held in the short-term
12 investment fund, except as provided in Section 6-10-10.1 NMSA
13 1978. The investments shall be made only in securities that
14 are issued by the United States government or by its
15 departments or agencies and are either direct obligations of
16 the United States or are backed by the full faith and credit of
17 the United States government or agencies sponsored by the
18 United States government.

19 J. The state treasurer, with the advice and consent
20 of the state board of finance, may also invest in contracts for
21 the present purchase and resale at a specified time in the
22 future, not to exceed one year or, in the case of bond
23 proceeds, not to exceed three years, of specific securities at
24 specified prices at a price differential representing the
25 interest income to be earned by the state. No such contract

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1 shall be invested in unless the contract is fully secured by
2 obligations of the United States or other securities backed by
3 the United States having a market value of at least one hundred
4 two percent of the amount of the contract.

5 K. The state treasurer, with the advice and consent
6 of the state board of finance, may also invest in contracts for
7 the temporary exchange of state-owned securities for the use of
8 broker-dealers, banks or other recognized institutional
9 investors in securities, for periods not to exceed one year for
10 a specified fee rate. No such contract shall be invested in
11 unless the contract is fully secured by exchange of an
12 irrevocable letter of credit running to the state, cash or
13 equivalent collateral of at least one hundred two percent of
14 the market value of the securities plus accrued interest
15 temporarily exchanged.

16 L. The collateral required for either of the forms
17 of investment in Subsection J or K of this section shall be
18 delivered to the state fiscal agent or its designee
19 contemporaneously with the transfer of funds or delivery of the
20 securities at the earliest time industry practice permits, but
21 in all cases, settlement shall be on a same-day basis.

22 M Neither of the contracts in Subsection J or K of
23 this section shall be invested in unless the contracting bank,
24 brokerage firm or recognized institutional investor has a net
25 worth in excess of five hundred million dollars (\$500,000,000).

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1 N. The state treasurer, with the advice and consent
2 of the state board of finance, may also invest in any of the
3 following investments in an amount not to exceed forty percent
4 of any fund that the state treasurer invests:

5 (1) commercial paper rated "prime" quality by
6 a national rating service, issued by corporations organized and
7 operating within the United States;

8 (2) medium-term notes and corporate notes with
9 a maturity not exceeding five years that are rated A or its
10 equivalent or better by a nationally recognized rating service
11 and that are issued by a corporation organized and operating in
12 the United States; or

13 (3) any asset-backed obligation with a
14 maturity not exceeding five years that is rated AAA or its
15 equivalent by a nationally recognized rating service.

16 O. The state treasurer, with the advice and consent
17 of the state board of finance, may also invest in:

18 (1) shares of a diversified investment company
19 registered pursuant to the federal Investment Company Act of
20 1940 that invests in United States fixed-income securities or
21 debt instruments authorized pursuant to Subsections I, J and N
22 of this section, provided that the investment company has total
23 assets under management of at least one billion dollars
24 (\$1,000,000,000) and the investments made by the state
25 treasurer pursuant to this paragraph are less than five percent

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1 of the assets of the investment company; or

2 (2) individual, common or collective trust
3 funds of banks or trust companies that invest in United States
4 fixed-income securities or debt instruments authorized pursuant
5 to Subsections I, J and N of this section, provided that the
6 investment manager has assets under management of at least one
7 billion dollars (\$1,000,000,000) and the investments made by
8 the state treasurer pursuant to this paragraph are less than
9 five percent of the assets of the individual, common or
10 collective trust fund.

11 P. No public funds to be invested in negotiable
12 securities or loans to financial institutions fully secured by
13 negotiable securities at current market value shall be paid out
14 unless there is a contemporaneous transfer of the securities at
15 the earliest time industry practice permits, but in all cases,
16 settlement shall be on a same-day basis either by physical
17 delivery or, in the case of uncertificated securities, by
18 appropriate book entry on the books of the issuer, to the
19 purchaser or to a reputable third-party safekeeping financial
20 institution acting as agent or trustee for the purchaser, which
21 agent or trustee shall furnish timely confirmation to the
22 purchaser. "